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General Assembly
Sixty-first session

Official Records

93rd plenary meeting
Thursday, 5 April 2007, 3 p.m.
New York

President: Ms. Al Khalifa ..... (Bahrain)

The meeting was called to order at 3.15 p.m.

Reports of the Fifth Committee

The President: The General Assembly will now consider the reports of the Fifth Committee on agenda items 116, 117, 124, 128 and 133.

I request Mr. Diego Simancas of Mexico, Rapporteur of the Fifth Committee, to introduce, in one intervention, the reports of the Fifth Committee that are before the Assembly.

Mr. Simancas (Mexico), Rapporteur of the Fifth Committee (*spoke in Spanish*): I have the honour today to introduce to the General Assembly the reports of the Fifth Committee that contain recommendations on a number of items that require action during the first part of the resumed sixty-first session of the General Assembly.

The Fifth Committee met from 5 March to 2 April 2007 and held 9 plenary meetings, 34 informal consultations and numerous "informal informal" consultations. The General Assembly has already taken up various other reports of the Fifth Committee that were prepared for the first part of the resumed session. I therefore now have the honour to make the following brief report on the work of the Fifth Committee.

With regard to agenda item 124, entitled "Joint Inspection Unit", the report of the Fifth Committee is contained in document A/61/654/Add.1. The relevant draft resolution, recommended in paragraph 6 of the report, was adopted by the Committee without a vote.

With regard to agenda item 128, entitled "Administration of justice at the United Nations", the report of the Committee is contained in document A/61/832. In paragraph 8 of its report, the Committee recommends to the General Assembly the adoption of a draft resolution, which the Committee adopted without a vote.

With regard to agenda item 133, on the Financing of the United Nations Operations in Burundi, the report of the Fifth Committee is contained in A/61/547/Add.1. In paragraph 6 of its report, the Committee recommends to the General Assembly the adoption of a draft decision, which the Committee adopted without a vote.

With regard to agenda item 117, entitled "Programme budget for the biennium 2006-2007", the report of the Fifth Committee is contained in document A/61/592/Add.4. In paragraph 17 of its report, the Committee recommends to the General Assembly the adoption of three draft resolutions, which were adopted by the Committee without a vote. Draft resolution I pertains to the conditions of service and compensation for officials other than Secretariat officials, namely, judges. Draft resolution II is entitled "Strengthened and unified security management system". And draft resolution III pertains to after-service health insurance.

Also under agenda item 117, a draft decision entitled "Financing of the International Research and Training Institute for the Advancement of Women" was adopted by the Committee without a vote. The Committee recommends to the General Assembly in

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paragraph 18 of its report, contained in document A/61/592/Add.4, the adoption of the draft decision without a vote.

Agenda item 116 is entitled "Review of the efficiency of the administrative and financial functioning of the United Nations". In paragraph 8 of its report in document A/61/667/Add.1, the Committee recommends to the General Assembly the adoption of a draft resolution on the audit and investigative reviews of the tsunami relief operations conducted by the United Nations Secretariat, funds and programmes and specialized agencies. Also in paragraph 9 of the same report, the Committee recommends to the General Assembly the adoption of a draft decision relating to questions deferred for future consideration. Both proposals were adopted by the Committee without a vote.

The President: If there is no proposal under rule 66 of the rules of procedure, I shall take it that the General Assembly decides not to discuss the reports of the Fifth Committee which are before the Assembly today.

It was so decided.

The President: Statements will therefore be limited to explanations of vote. The positions of delegations regarding the recommendations of the Fifth Committee have been made clear in the Committee and are reflected in the relevant official records.

May I remind members that, under paragraph 7 of decision 34/401, the General Assembly agreed that

> "When the same draft resolution is considered in a Main Committee and in plenary meeting, a delegation should, as far as possible, explain its vote only once, i.e., either in the Committee or in plenary meeting unless that delegation's vote in plenary meeting is different from its vote in the Committee."

May I remind delegations that, also in accordance with General Assembly decision 34/401, explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

Before we begin to take action on the recommendations contained in the reports of the Fifth Committee, I should like to advise representatives that we are going to proceed to take decisions in the same manner as was done in the Fifth Committee, unless notified otherwise in advance.

I therefore hope that we may proceed to adopt without a vote those recommendations that were adopted without a vote in the Fifth Committee.

The Assembly will now consider the report of the Fifth Committee on agenda item 124, entitled "Joint Inspection Unit", contained in document A/61/654/Add.1.

The Assembly has before it a draft resolution recommended by the Fifth Committee in paragraph 6 of its report.

We will now take a decision on the draft resolution, entitled "Programme of work of the Joint Inspection Unit for 2007". The Fifth Committee adopted the draft resolution without a vote. May I take it that the Assembly wishes to do the same?

The draft resolution was adopted (resolution 61/260).

The President: The General Assembly has thus concluded this stage of its consideration of agenda item 124.

Agenda item 128 (*continued*)

Administration of justice at the United Nations

Report of the Fifth Committee (A/61/832)

The President: The Assembly has before it a draft resolution recommended by the Fifth Committee in paragraph 8 of its report, contained in document A/61/832.

During this sixty-first session of the General Assembly, we have taken a significant step forward in improving the effectiveness and efficiency of this Organization by approving the first serious overhaul of the United Nations system of administration of justice in 60 years. Around the world, the Organization promotes justice and equality and represents the rule of law to its Members. The Organization therefore requires a system of justice that is independent, transparent, professional and adequately resourced.

We owe it to the 55,000 staff members of the Secretariat, funds and programmes who, in the case of employment disputes, have recourse only to the Organization's own justice system. Having taken this step, I would like to give my personal thanks to

representatives in both the Sixth and Fifth Committees, as well as in the Advisory Committee on Administrative and Budgetary Questions, who worked tirelessly, with focus and commitment, over these past few weeks to establish a more effective system of internal justice for both current United Nations staff as well as the next generation of employees.

I would also like to thank the members of the independent external panel of legal experts — the Redesign Panel — that proposed the radical overhaul of the system last summer, as well as the Secretary-General and his staff, who helped to facilitate this important deliberation. This has been a true team effort and a model for cooperation among Member States and Secretariat management and staff.

The existing system of internal justice, in place since the late 1940s, was designed for a different era when the Organization had only a few thousand staff members in a handful of locations. It relied on the voluntary input of staff members themselves, participating in ad hoc boards and committees with only limited authority to advise the Secretary-General. Over time, the backlogs and delays have become significant and the independence and credibility of the system seriously compromised.

The existing system serves no one well — not the staff, not the managers and, ultimately, not the Organization or the Member States. The Redesign Panel rightly recognized that and made bold proposals for change. The draft resolution before the Assembly today lays out the key features of fundamentally different system. Members have asked for all its elements to be fully functional by January 2009.

These include: a more robust informal system with the emphasis on resolving a large number of disputes between staff and managers before they go to litigation; a strengthened Ombudsman function for the Secretariat and its funds and programmes that will be integrated yet decentralized and with the capacity to conduct formal mediation services; a professionalized formal system with two tiers, comprising a first-instance tribunal and an appellate body rendering binding decisions and ordering appropriate remedies — this will replace the advisory bodies that exist in the current system; a stronger capacity for providing legal assistance and guidance to staff; a series of measures to improve the accountability of managers and correct faulty decisions; and a new office for the administration of justice, headed by a senior official who will take ownership of this system and coordinate all of its elements.

These represent important measures. However, we must keep up the momentum to make sure that this new system is created in a timely and efficient manner.

The Secretary-General has been asked to prepare a set of reports which will provide the necessary supplementary details for the new system. The Assembly has also asked the Secretary-General to put forward an immediate request for resources so that the transition from the old to the new system can be made effectively and with minimum disruption. The swift approval of these additional reports, along with approval of the necessary resources, is essential in ensuring that the new system comes into effect in a timely manner. I am confident that members will continue to provide the necessary support and guidance, as they have done in the past few weeks.

While the adoption of the draft resolution today will be only an initial step towards that very important reform, it will, indeed, be a crucial step. The reform of the system of the administration of justice should not be viewed in isolation from the total package of United Nations reform. By adopting the draft resolution, the General Assembly will reaffirm our commitment and determination to see a better United Nations.

I would again like to thank members for their support on this issue. They have done the Organization a great service, which will be appreciated for years to come.

We will now take a decision on the draft resolution recommended by the Fifth Committee in paragraph 8 of its report (A/61/832). The Fifth Committee adopted it without a vote. May I take it that the Assembly wishes to do the same?

The draft resolution was adopted (resolution 61/261).

The President: The General Assembly has thus concluded this stage of its consideration of agenda item 128.

Agenda item 133 (*continued*)

Financing of the United Nations Operation in Burundi

Report of the Fifth Committee (A/61/547/Add.1)

The President: The General Assembly has before it a draft decision recommended by the Fifth Committee in paragraph 6 of its report. We will now take action on the draft decision. The Fifth Committee adopted it without a vote. May I take it that the Assembly wishes to do the same?

The draft decision was adopted.

The President: The General Assembly has thus concluded this stage of its consideration of agenda item 133.

Agenda item 117 (*continued*)

Programme budget for the biennium 2006-2007

Report of the Fifth Committee (A/61/592/Add.4)

The President: The Assembly has before it three draft resolutions recommended by the Fifth Committee in paragraph 17 of its report and one draft decision recommended by the Committee in paragraph 18 of the same report.

Before proceeding further, I would like to draw the attention of members to a letter from the President of the International Court of Justice dated 3 April 2007, which I transmitted to all Permanent Representatives and Permanent Observers to the United Nations yesterday and which will be issued as a General Assembly document under the symbol A/61/837.

I now give the floor to those representatives who wish to speak in explanation of position before action is taken on draft resolution I.

Mr. Woeste (Germany): I have the honour to speak on behalf of the European Union (EU). The European Union would like to reaffirm its unreserved support for the work of the judges, prosecutors and all personnel of the International Court of Justice and the international criminal tribunals and for their responsible and important work. The EU would also like to underline again that the work of judges of various courts and tribunals is equally valuable and important to us.

During the first part of the resumed session of the Fifth Committee, member States were able to reach consensus on a draft resolution in response to a request to make the salary system of the International Court of Justice, the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda clearer and more transparent and to remove certain anomalies. That draft resolution will be adopted shortly.

The EU notes that the President of the International Court of Justice has sent a letter to the President of the General Assembly dated 3 April 2007, which raises concerns about the impact of that text on the equality of judges at the International Court of Justice. That letter was brought to the attention of Member States only yesterday, and after the adoption of the draft resolution in the Fifth Committee. Unfortunately, the timing meant that we were not able to take the letter into account during our deliberations on the item.

The European Union wishes to reaffirm its appreciation for the dialogue between the international courts and tribunals and the Member States represented in the General Assembly, and reiterates its readiness to continue to consider all aspects of and viewpoints on the conditions of service for judges in the context of the forthcoming sessions of the Fifth Committee and the General Assembly.

Mr. García (United States of America): My delegation notes with concern the letter from the President of the International Court of Justice, Rosalyn Higgins, about the possible implications of draft resolution I for provisions of the Statute of the International Court of Justice. My delegation would urge that the Secretary-General consult with the President of the International Court of Justice on the concerns raised in her letter and to include additional information on this topic, as well as possible options for addressing the concerns of the Court, in the context of the report requested in paragraph 11 of the draft resolution.

Mr. Jonah (Sierra Leone): My delegation wants to express its support for the two statements just made, on behalf of the European Union and the United States respectively. My delegation finds the letter from the President of the International Court of Justice to be very compelling, and we support the suggestions made by the representative of the United States.

The President: We have heard the last speaker in explanation of position.

We will now take a decision on the three draft resolutions and on the draft decision.

We now turn to draft resolution I, entitled "Conditions of service and compensation for officials other than Secretariat officials: members of the International Court of Justice and judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda". The Fifth Committee adopted draft resolution I without a vote. May I take it that the Assembly wishes to do the same?

Draft resolution I was adopted (resolution 61/262).

The President: Draft resolution II is entitled "Strengthened and unified security management system". The Fifth Committee adopted draft resolution II without a vote. May I take it that the Assembly wishes to do likewise?

Draft resolution II was adopted (resolution 61/263).

The President: Draft resolution III is entitled "Liabilities and proposed funding for after-service health insurance benefits". The Fifth Committee adopted draft resolution III without a vote. May I take it that the Assembly wishes to do the same?

Draft resolution III was adopted (resolution 61/264).

The President: We now turn to the draft decision, entitled "Financing of the International Research and Training Institute for the Advancement of Women". The Fifth Committee adopted the draft decision without a vote. May I take it that the Assembly wishes to do likewise?

The draft decision was adopted.

The President: I shall now call on those representatives who wish to speak in explanation of position on the decisions just taken.

Mr. Hussain (Pakistan): I have the honour to speak on behalf of the Group of 77 and China regarding draft resolution I contained in document A/61/592/Add.4.

The Group of 77 and China wishes to express its high appreciation for the important work of the International Court of Justice (ICJ) as a principal organ of the United Nations. We would like to reaffirm Article 32 of the Statute of the ICJ, whereby the salaries of the judges shall be determined by the General Assembly and not decrease during the term of office.

We take note of the concerns raised by the President of the ICJ in the letter dated 3 April addressed to you, Madam President. We just want to mention that these concerns will be taken into account in the discussions on this agenda item in the course of the consideration of the Secretary-General's report under this item at the sixty-second session.

Mr. Adsett (Canada): I have the honour to speak on behalf of Canada, Australia and New Zealand (CANZ).

The CANZ delegations join the consensus today on the adoption of draft resolution I, on conditions of service and compensation for international judges, but wish to explain their position. The CANZ delegations have tremendous respect both for the work of the International Court of Justice (ICJ) and for the quality and dedication of the judges who sit on that important body.

As a body dedicated to the promotion of the rule of law at both the national and the international levels, the General Assembly must uphold the highest standards and ensure that its actions are in conformity with the Charter, upon which it is founded.

Late yesterday, we received a copy of a letter from the President of the General Assembly attaching a copy of a letter from Judge Rosalyn Higgins, President of the International Court of Justice. The letter raises a number of concerns about the resolution that has just been adopted, including whether it is in conformity with the Charter.

It is clear to all of us that the General Assembly may take only decisions that fall within its mandate under the Charter and must act in conformity with the Charter. The issues raised by President Higgins are important and should be adequately considered. However, postponing action today would have had the effect of preventing the General Assembly from addressing anomalies in the pay structure and the

concerns of judges who are disadvantaged by the current system.

Nevertheless, in the light of the concerns raised by the ICJ, we are prepared to continue reflecting on this issue during the sixty-second session.

The President: We have heard the last speaker in explanation of position.

The Assembly has thus concluded this stage of its consideration of agenda item 117.

Agenda item 116 (*continued*)

Review of the efficiency of the administrative and financial functioning of the United Nations

Report of the Fifth Committee (A/61/667/Add.1)

The President: The Assembly has before it a draft resolution recommended by the Fifth Committee in paragraph 8 of its report and a draft decision recommended by the Committee in paragraph 9 of the same report.

We will now take a decision on the draft resolution and on the draft decision. The draft resolution, entitled "Audit and investigative reviews of the tsunami relief operations conducted by the United Nations Secretariat, funds and programmes and the specialized agencies", was adopted by the Fifth Committee without a vote. May I take it that the Assembly wishes to do likewise?

The draft resolution was adopted (resolution 61/265).

The President: We will now take action on the draft decision, entitled "Questions deferred for future consideration". The Fifth Committee adopted the draft decision without a vote. May I take it that the Assembly wishes to do the same?

The draft decision was adopted.

The President: The Assembly has thus concluded this stage of its consideration of agenda item 116.

The General Assembly has thus concluded its consideration of all the reports of the Fifth Committee before it.

The meeting rose at 3.50 p.m.